

United States District Court  
District of Massachusetts

Joseph P. Schmitt, pro se,  
Plaintiff,

v.

Jeffrey Smith, et al,  
Defendants.

Civil Docket No. 04-13  
U.S. DISTRICT COURT  
DISTRICT OF MASS.  
APR 13 11:23 AM '04  
CLERK'S OFFICE

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Plaintiff's Motion For Court to Order the  
Defendants to Produce A true copy of  
Civil Action No. SUCV2002-02562  
Schmitt v. Smith, et al

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Now comes the pro se plaintiff and moves this Honorable Court to issue an Order directing the Dept. of Correction to produce a true copy of civil Action No. SUCV2002-02562 and turn it over to the Plaintiff.

As grounds for this motion plaintiff states the following under pains and penalties of perjury.

1. Plaintiff had eight civil actions filed in Suffolk Court in 2002.
2. The immediate action is associated to the captioned Suffolk action which was withdrawn by the

Plaintiff because he felt prejudiced by Suffolk Court and had intentions to rewrite the action and file it in U.S. District Court. This was prior or after wrapping up the prison term.

3. Plaintiff wrapped up his 4-8 year prison term on August 11, 2002 and transferred to the Treatment Center.

4. Plaintiff did not receive any of his eight civil action files at the Treatment Center and filed a grievance (see exhibit A).

5. After nearly nine months grievance officer John Burgo finally responded to exhibit A. 103-CMR-491 clearly dictates that a grievance shall be resolved in ten days or less. Said grievance was denied. Grievance officer alleged an investigation took place and said legal documents were confiscated/held by DOC legal.

6. I appealed the grievance to Robert Murphy, Treatment Center Superintendant. He denied it out of hand. See exhibit A.

7. Dept of Correction Grievance Coordinator repeatedly denied my claims, that DOC confiscated my law suits, and insisted this material was given to me at the Treatment Center. See exhibits "B," "C."

8. After protesting to the commissioner I received exhibit "O". This in fact indicates that John Burgo fabricated facts of governmental records. He never spoke to anyone at D.O.C. legal about my legal material, yet

he violated my due process by waiting nearly nine months to respond to my grievance.

9. Plaintiff wrote numerous governmental officials about this matter of corruption. To save the court time and paperwork I will not include all these letters, but shall if the court requires them and informs me to do so.

10. Plaintiff received exhibit "P" from a reputable office of lawyers. It clearly brings to light the lies and deception, and blatant illegal violation of my rights, done to me since October 2002 by Dept of Correction officials.

11. Suffolk Court refuses to give me case copies.

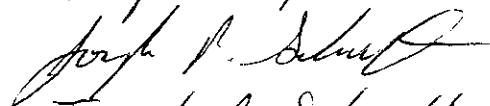
12. Defendants have violated my rights and Suffolk Court adds to it by refusing me case copies so I can put together strong cases and refile them in U.S.D.C. to get justice as the State bill of Rights and the U.S. of A Constitution guarantees my right to.

13. These cases have vital facts and documents to support my case. I have full rights to have these case files returned even if the DOC has to pay the Court for certified copies.

WHEREFORE, for all facts stated under oath above Plaintiff prays this court grant his motion and order the D.O.C. to provide him with a full and true copy of his civil action which they caused to be taken from plaintiff illegally.

Dated: 04/08/2004

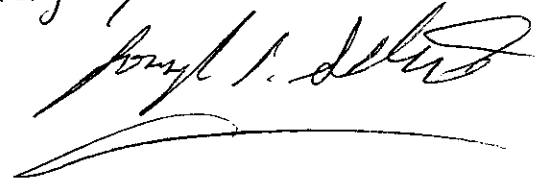
Attachments: Exhibit "A" 4 pages  
Exhibit "B" 1 page  
Exhibit "C" 2 pages  
Exhibit "D" 1 page  
Exhibit "P" 1 page

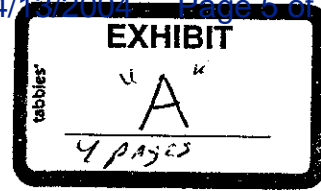
Respectfully filed  
  
Joseph P. Schmitt  
30 Administration Road  
Bridgewater, MA 02324

Certificate of Service

I, Joseph P. Schmitt, hereby certify that a true  
copy of the foregoing has been served to Treatment  
Center Legal Dept. via institutional mail on 04/08/2004

Signed under pains and penalties of perjury





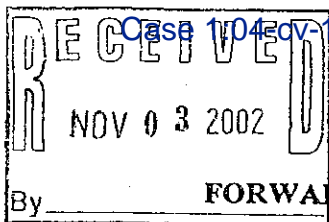
Received  
7-28-03

Resident Joseph, Schmitt  
181189 D1 Unit

RG: lost legal property from US  
lack of caution



Sgt. John Burgo, IGC.



DEPARTMENT OF CORRECTION  
INMATE GRIEVANCE FORM

By \_\_\_\_\_ FORWARD TO THE INSTITUTIONAL GRIEVANCE COORDINATOR (IGC)

SECTION "A"

NAME: Joseph Schmitt INSTITUTION: MTC

NUMBER: M-81137 HOUSING UNIT: MPU DATE OF INCIDENT: Oct 2002

COMPLAINT: MCI-CS did not forward my typewriter and 8 civil actions all of which were packed in my 10 block cell upon my wing up date/transfer date Aug 9<sup>th</sup>, 2002. I did inform MPU Officer William Matthews of this problem and requested (ATTACH ADDITIONAL PAGE IF NECESSARY) grievances since the issue came to light. Also letters & paperwork from Daniel Tavarez and Charles Elvick was not forwarded with my property.

REMEDY

REQUESTED: Return my typewriter in perfect working condition and civil actions 02-0335; 02-1461; 02-1662; 02-0590; 02-1066; 02-1492; 02-2562 and 02-1074, in complete form. Said lawsuits can be obtained from MA. D.C. Legal Division Attorney, Julie E. Daniels, or contact IPS at MCI-CS. Return all my letters and paperwork.

INMATE SIGNATURE: Joseph P. Schmitt DATE: 10-30-02

STAFF RECIPIENT: John Burgo DATE: 11-03-02

DATE RECEIVED: 11-03-02

SECTION "B"

ASSIGNED GRIEVANCE NUMBER: 2002-79

DECISION RENDERED: ☐ APPROVED  
☒ DENIED

SUMMARY OF FINDINGS:

Be advised after the investigation at MCI-CS all Legal Documents were turned in to D.C. Legal Dept. Your request for legal Documents would have to go through Dept. Legal Office. All time limits were waived per Supt. Murphy. You have 700 Days To Appeal This Decision

IGC SIGNATURE: John Burgo DATE: 7-17-03

UNFILED GRIEVANCES MAY BE APPEALED TO THE SUPERINTENDENT WITH 10 DAYS OF IGC'S DECISION.

SECTION "C"

INMATE GRIEVANCE RECEIPT

INMATE NAME: Schmitt, Joseph INSTITUTION: MTG  
NUMBER: 181137 DATE RECEIVED: 11-03-02  
SIGNATURE (IGC): John Bunge TITLE: Asst.

01/05/01

491 - 13

PAGE 4 of 4

08-04-03A10:16 RCVD

DEPARTMENT OF CORRECTION  
INSTITUTION APPEAL FORM  
FORWARD TO THE INSTITUTIONAL SUPERINTENDENT

## SECTION A

NAME: Joseph P. Schmitt INSTITUTION: MTCNUMBER: 11-81137 HOUSING UNIT: D1 DATE OF INCIDENT: Oct 2002

APPEAL: The fact that my legal material is being deprived my immediate access  
violates my civil rights. There have suits are all against DOC attorneys and  
DOC officials confiscated them. Also note it took nearly 8 months for the  
(ATTACH ADDITIONAL PAGE IF NECESSARY) grievance to be responded to  
Also I only received the denied grievance on 7-28-03 11 days after IBC signed off on it  
REMEDY

REQUESTED: Return all my legal material in perfect condition and  
in complete form as it was when it was illegally confiscated by DOC attorneys  
Return my typewriter or pay me for it and the return to day books

INMATE SIGNATURE: Joseph P. Schmitt DATE: 7-30-03

STAFF RECIPIENT: \_\_\_\_\_ DATE: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

## SECTION B

ASSIGNED GRIEVANCE NUMBER: 2002-79

ASSIGNED INSTITUTION APPEAL NUMBER: \_\_\_\_\_

DECISION RENDERED: APPROVED  
✓ DENIED

## SUMMARY OF FINDINGS:

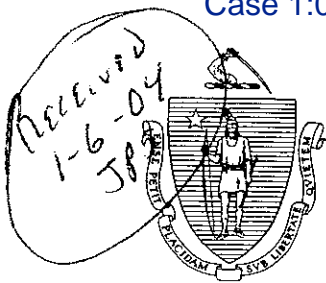
Matter has been addressed appropriately at this level.

SUPERINTENDENT'S  
SIGNATURE: \_\_\_\_\_DATE: 8/25/03

## SECTION C

## INMATE APPEAL RECEIPT

INMATE NAME: Joseph Schmitt INSTITUTION: MTCNUMBER: 11-81137 D-1 DATE RECEIVED: 03-04-03A10:16 RCVDRECEIPTING STAFF: Alexis Miranda TITLE: NPOI

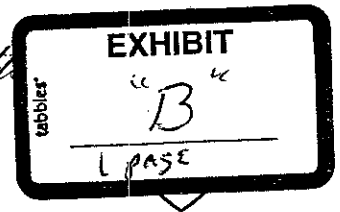


Mitt Romney  
Governor

Kerry Healey  
Lieutenant Governor

Edward A. Flynn  
Secretary

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety*  
*Department of Correction*  
*50 Maple Street, Suite 3*  
*Milford, Massachusetts 01757-3698*  
*(508) 422-3300*  
*www.mass.gov/doc*



Kathleen M. Dennehy  
Acting Commissioner

James Bender  
Acting Deputy Commissioner

Joseph Schmitt, M81137  
MTC  
30 Administration Rd.  
Bridgewater, MA 02324

December 29, 2003

Dear Mr. Schmitt:

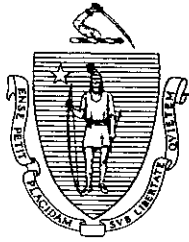
In accordance with 103 CMR 491, Inmate Grievance Policy, the Department Grievance Coordinator reviews all grievance appeals denied at the Superintendent's level. As a result of the aforementioned requirement, I have reviewed your grievance (#02-79) and appeal, relative to confiscated/missing law suits.

Please be advised that after a thorough review of the above-mentioned grievance and appeal, I support the Superintendent's decision to deny your grievance, as my investigation revealed that the law suits noted in your grievance are not being held at MCI-Cedar Junction. Additionally, property inventory records reveal that your legal documents were sent to the Massachusetts Treatment Center accordingly.

Sincerely,

Kristie Ladouceur  
Department Grievance Coordinator

cc. Superintendent Murphy  
J. Burgo, IGC  
File



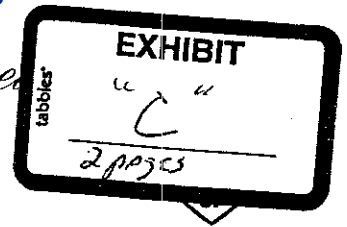
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Kathleen M. Dennehy  
Acting Commissioner

James Bender  
Acting Deputy Commissioner

February 23, 2004

Joseph Schmitt, M81137  
Massachusetts Treatment Center  
30 Administration Road  
Bridgewater, MA 02324

Dear Mr. Schmitt;

I am in receipt of your correspondence dated January 15, 2004 regarding your allegations of missing legal property.

Please be advised, an intensive search for your legal materials at MCI Cedar Junction and the Massachusetts Treatment Center has been unsuccessful. Department of Correction's records indicate that your legal property was sent to the Massachusetts Treatment Center on September 17, 2003. Any materials that were confiscated by the Inner Perimeter Security staff at MCI Cedar Junction is due to the material being contraband (sexually explicit). Those materials will remain as evidence pending the resolution of your civil commitment process. All eight civil actions which you list in your correspondence to Undersecretary Bradley have been dismissed by the Court. In fact, the Court specifically stated on December 3, 2003 that in each of the eight cases you could not have certified copies because you were seeking in excess of 2,500 pages, the cost of which totals \$6,425.00.

You also state in your correspondence to Undersecretary Bradley that you were threatened with bodily harm in the front gate/hallway of MCI Cedar Junction by D.O.C. Be advised, Sergeant Mulvey was interviewed regarding the allegations in which he denied. You did in fact refuse to move to the Massachusetts Treatment Center in which staff at MCI Cedar Junction told you the potential option would be to use force. You did move voluntarily at this time, which avoided injury to you and staff.

I trust this response addresses your concerns.

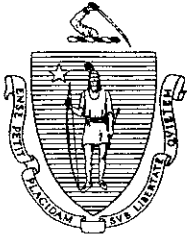
Sincerely,

A handwritten signature in black ink, appearing to read 'K. Dennehy'.

Kathleen M. Dennehy  
Acting Commissioner

KD/TH/bt

cc: Patrick H. Bradley, Undersecretary of Criminal Justice  
Timothy Hall, Acting Assistant Deputy Commissioner  
File



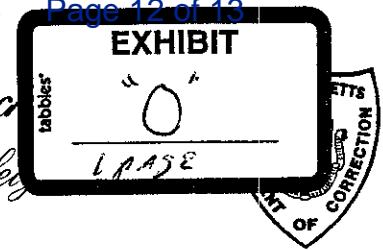
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Kathleen M. Dennehy  
Acting Commissioner

James Bender  
Acting Deputy Commissioner

Joseph Schmitt, M81137  
MTC  
30 Administration Rd.  
Bridgewater, MA 02324

March 8, 2004

Dear Mr. Schmitt:

I am in receipt of your correspondence dated January 30, regarding grievance #02-79. More specifically, you express your dissatisfaction with the outcome of this grievance and request that you be provided with your legal cases and your typewriter.

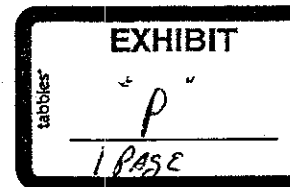
Please be advised that I have discussed this matter with Kristie Ladouceur, who is the Department Grievance Coordinator and appellate authority regarding grievance matters. Ms. Ladouceur informed me she directed your Institutional Grievance Coordinator to contact the Legal Division to ensure they were not holding any legal cases belonging to you. However, upon contacting the Legal Division herself, it was revealed that your Institutional Grievance Coordinator did not discuss the matter with them. Additionally, Ms. Ladouceur was advised that the Legal Division was not holding your legal cases. Furthermore, I was advised that upon review of your property records it was clear that your legal documents were forwarded to MTC. Lastly, Ms. Ladouceur informed me that she is giving your typewriter concerns reconsideration, as this issue was inadvertently overlooked and you will be provided a separate response regarding her findings within the next week.

I hope that this letter has clarified concerns surrounding your grievance.

Sincerely,

Kathleen M. Dennehy  
Acting Commissioner

cc. Kristie Ladouceur, Department Grievance Coordinator  
File



MASSACHUSETTS CORRECTIONAL LEGAL SERVICES  
8 WINTER STREET, ELEVENTH FLOOR  
BOSTON, MA 02108-4705

(617) 482-2773  
TOLL FREE (800) 882-1413  
COLLECT CALLS (617) 482-4124  
FAX (617) 451-6383

March 31, 2004

Joseph Schmitt  
M-81137  
Massachusetts Treatment Center  
30 Administration Rd.  
Bridgewater, MA 02324

Re: confiscated lawsuits

Dear Mr. Schmitt:

Leslie Walker contacted DOC legal about your confiscated lawsuit. According to general counsel Nancy White, DOC does not have your lawsuits. Apparently they are now in the hands of the Worcester County DA's office.

I am sorry but MCLS cannot assist you further with getting your lawsuits returned to you. Good luck.

Sincerely,

A handwritten signature in black ink, appearing to be "Al Troisi", written over a horizontal line.

Al Troisi

AT/ps